



## POLICE DEPARTMENT CITY OF NEW YORK

January 25, 2018

**MEMORANDUM FOR:** Police Commissioner

**Re:** Police Officer Mandeep Singh  
Tax Registry No. 952245  
41 Precinct  
Disciplinary Case No. 2017-17005

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**Charges and Specifications:**

1. Police Officer Mandeep Singh, on or about August 13, 2016, at approximately 0300, while assigned to 041 PCT and on duty, in the vicinity of Garrison Avenue and Tiffany Street, Bronx County, wrongfully used force, in that he pointed his gun at Person A without police necessity. *(As amended)*  
P.G. 203-11 USE OF FORCE  
P.G. 221-01 FORCE GUIDELINES  
P.G. 221-02, Page 2, Paragraph 11 USE OF FORCE
2. Police Officer Mandeep Singh, on or about August 13, 2016, at approximately 0300, while assigned to 041 PCT and on duty, in the vicinity of Garrison Avenue and Tiffany Street, Bronx County, wrongfully used force, in that he struck Person A with his gun without police necessity. *(As amended)*  
P.G. 203-11 USE OF FORCE  
P.G. 221-01 – FORCE GUIDELINES  
P.G. 221-02, Page 2, Paragraph 11 USE OF FORCE
3. Police Officer Mandeep Singh, on or about August 13, 2016, at approximately 0300, while assigned to 041 PCT and on duty, in the vicinity of Garrison Avenue and Tiffany Street, Bronx County, wrongfully used force, in that he kicked Person A multiple times about his back without police necessity. *(As amended)*  
P.G. 203-11 USE OF FORCE  
P.G. 221-01 FORCE GUIDELINES  
P.G. 221-02, Page 2, Paragraph 11 USE OF FORCE
4. Police Officer Mandeep Singh, on or about August 13, 2016, at approximately 0300, while assigned to 041 PCT and on duty, in the vicinity of Garrison Avenue and Tiffany Street, Bronx County, engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he arrested Person A without sufficient legal authority.

P.G. 208-01, Page 1, Paragraph 3 – LAW OF ARREST

5. Police Officer Mandeep Singh, on or about August 13, 2016, at approximately 0300, while assigned to 041 PCT and on duty, in the vicinity of Garrison Avenue and Tiffany Street, Bronx County, engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he arrested Person B without sufficient legal authority.

P.G. 208-01, Page 1, Paragraph 3 – LAW OF ARREST

6. Police Officer Mandeep Singh, on or about August 13, 2016, at approximately 0300, while assigned to 041 PCT and on duty, in the vicinity of Garrison Avenue and Tiffany Street, Bronx County, spoke discourteously to Person B in that he stated in sum and substance, SHUT THE FUCK UP.

P.G. 203-09, Page 1, Paragraph 2 DISCOURTESY

7. Police Officer Mandeep Singh, on or about August 13, 2016, at approximately 0300, while assigned to 041 PCT and on duty in the vicinity of Garrison Avenue and Tiffany Street, Bronx County, abused his authority as a member of the New York City Police Department, in that he interfered with Person B's use of a recording device without sufficient legal authority. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 ■ PUBLIC CONTACT – PROHIBITED CONDUCT

**Appearances:**

For the CCRB: Raasheja N. Page, Esq.  
Civilian Complaint Review Board  
100 Church Street, 10th Floor  
New York, NY 10007

For Respondent: Craig R. Hayes, Esq.  
Worth, Longworth & London, LLP  
111 John Street, Suite 640  
New York, NY 10038

**Hearing Date:**

November 8, 2017

**Decision:**

Guilty: Specification Nos. 2, 3 and 6  
Not Guilty: Specification Nos. 1, 4, 5 and 7

**Trial Commissioner:**

ADCT David S. Weisel

## **REPORT AND RECOMMENDATION**

The above-named member of the Department appeared before the Court on November 8, 2017. Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The CCRB called Sergeant William Miller as a witness, and presented the CCRB interview transcripts of Person A, Person B, and Person C as evidence. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

### **DECISION**

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, the Court finds Respondent Guilty of Specification Nos. 2, 3 and 6, and Not Guilty of Specification Nos. 1, 4, 5 and 7.

### **FINDINGS AND ANALYSIS**

It is undisputed that on August 13, 2016, at approximately 0300 hours, there was a police incident involving a vehicle at a gas station near the corner of Tiffany Street and Garrison Avenue in the Bronx, within the confines of the 41 Precinct. The vehicle was being chased by the police. Many members of the service responded to the incident, as 10-13 and 10-85 calls for assistance were made over the radio. This included Respondent, a Sikh member of the service of South Asian descent who has a beard and wears a turban at all times, including while on duty.

It is further undisputed that there were many onlookers at the gas station, including the CCRB complainants and witnesses in this matter: Person A, Person B, and Person C. It is undisputed that these three were not directly involved in the vehicle incident. It is undisputed that a vehicle stop was made, and that police officers pursued the occupants of the car after they ran out. It is further undisputed that Person A and another onlooker ran as well. It is further undisputed that Respondent pointed his service firearm at Person A and others.

Respondent asserted that he was justified in doing so because he reasonably perceived the group as running toward a suspect he was helping to arrest.

The CCRB also charged that Respondent struck Person A with his firearm, kicked him in the back, falsely arrested Person A and Person B, wrongfully interfered with Person B's video recording of the incident by ordering his arrest once he saw his cell phone out, and told Person B to shut the fuck up. Although it is undisputed that Person A and Person B were arrested, Respondent disclaimed any responsibility for their arrests. He also denied striking Person A or speaking discourteously to Person B.

The complainants did not appear at trial. Their CCRB statements were admitted into evidence:

### **CCRB Interview Statements**

*Person A* was interviewed in person by the CCRB on August 31, 2016. He was 18 years old at the time of the incident (CCRB Ex. 1, Person A interview transcript, pp. 1-2).

Person C is Person A's cousin. Around 0100 or 0200 hours on August 13, 2016, after attending a party, Person A drove with others, including his friend Person B, to a nearby gas station. "There was a little party going on," with perhaps 40 people congregating at the gas station. Person A observed police vehicles chasing and stopping a BMW. He also saw seven individuals running away from two police cars. "Everybody is recording." The officers were "stopping everybody asking everybody why they're there." Several officers were wearing plainclothes and more police cars arrived (Ex. 1, pp. 3-4, 10-14, 25, 27-29, 31-34).

Person A admitted that he started running when he saw the officers. Person A described himself as running back to his friend's car from where he had been standing at the gas station. Many people were running. Two officers were pursuing Person A while two were coming toward Person A. The police told him to put his hands up and pistol-whipped him. He was being struck with

batons and kicked by at least three officers. One of the officers told him to shut the fuck up. In Person A's view, the officers assumed that he was part of what was happening with the BMW (Ex. 1, pp. 4-6, 29, 37-39).

Person A described one of the officers that came toward him as having "something black over his head . . . something his religion. There's something black and then he had a bonnet in the front." He also had a beard. The officer was in his late 20s or early 30s, had brown skin, and was short, about 5'4''. He was wearing plainclothes (Ex. 1, pp. 42-45).

Person A described the officer that used a gun to strike his face as Indian. "The Indian guy" told Person A to freeze, put his hands up and get on the ground. His friend learned that the officer's name was Mandeep (Ex. 1, pp. 7, 10, 45, 92-93).

Person A stated that he froze and put his hands up when the officer told him to do so. The officer hit him in the face with the gun. After Person A fell to the ground, the Indian officer and another officer were beating him. They were saying, "[Y]ou're fucking crazy. Why did you run? Do you have anything to do with it?" (Ex. 1, pp. 47-50, 52-53).

Person A stated that Person B came over and said, "What was going on, what happened, why are you hitting him for?" The Indian officer told Person B at gunpoint to "shut the fuck up" (Ex. 1, pp. 58-59).

Both Person A and Person B were arrested. Person A later went to the hospital. He had injuries to his neck, knee, ankle and jaw. He had contusions on the back of his head and both sides of his face (Ex. 1, pp. 7-8, 10, 66, 75-76, 80-81).

Exhibits 5a through 5h were photographs of Person A taken by his mother within 24 hours after his release from custody (Tr. 4-5; Ex. 1, pp. 81-83). Exhibit 5a showed a bump on the left side of Person A's head, approximately two to three inches in diameter. 5b depicted a red scratch and bruise, approximately two inches in length and a half-inch in diameter respectively, on

Person A's right temple. 5c showed redness on the back of Person A's neck. 5d showed some bruising on Person A's left shoulder. 5g appeared to show a bruise on Person A's left shoulder blade or between his two shoulder blades. 5h showed an ice pack on Person A's right foot. It was unclear exactly what 5e and 5f depicted.

Person A's medical records were admitted as CCRB Exhibit 4. Person A went to the hospital on August 13, 2016, around 0500 hours. An examination found contusions and abrasions near his right orbital socket, left face and forehead, and mild swelling on both sides of the head. There also was mild swelling to Person A's right ankle, an abrasion to his right wrist, and mild abrasions on his back and shoulders, but no obvious injury to the shoulder itself. He was diagnosed with acute pain due to trauma and given several non-narcotic pain relievers. A facial CT scan and ankle and shoulder X-rays were normal (Tr. 3-4; Ex. 4, pp. 7, 11, 13-14, 17, 19, 28, 31-33, 36- 38, 44-45, 47, 58, 61-62, 66-68, 76-79, 89-90, 92, 102).<sup>1</sup>

*Person B* was interviewed in person by the CCRB on September 12, 2016. Person B admitted that sometime between midnight and three in the morning on August 13, 2016, at Barretto Point Park in Hunts Point, he was attending a "car meet," i.e., a meet-up of "hooked up car" owners to display their vehicles and to race them, often on city streets. Person B maintained that he and his friends just attended to "chill and relax" and look at the cars. "If people are doing otherwise, that's on them." Person B conceded that "some people, they tend to get out of hand, start playing music outrageously loud" (Tr. 48-49; Ex. 2, Person B interview transcript, pp. 2-3, 8-9, 14-16).

Person B stated that the police broke up the car meet, so he and others, including Person A, made their way to a nearby gas station. He noticed that several police cars were chasing a

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<sup>1</sup> Because the medical records were not Bates-stamped or otherwise usefully paginated, the page numbers used here are those created when the document was scanned into Adobe Acrobat Reader.

BMW. “[P]eople were going crazy.” There was “a guy coming through the gas station” and “we backed away because we got scared.” The police ordered everyone at the station to leave. Person A, however, got scared when he saw someone with a gun and started running (Ex. 2, pp. 3-4, 9-12, 14-18, 20-21, 23, 28).

Person B indicated that the police told Person A to stop. When he did, an Indian officer struck Person A in the head with a gun on the left forehead. The police began beating up Person A. Person B witnessed the Indian officer kick Person A in the back approximately three times. Person B told the police to stop, although he admitted falsely telling them that Person A was a minor because he was “like a little kid to me.” Person B asked why Person A was being beaten when “the guys who were committing the crime are clearly over there.” The Indian officer told him, “[S]hut the fuck up” (Ex. 2, pp. 4-5, 7-8, 25-26, 28-29, 35-37, 39-42, 78).

Person B described the Indian officer as between 5'8" and 5'10", with a full beard and “milk chocolate” skin. He was wearing a small black religious cap, the name of which Person B did not recall. He knew it was religious in nature from kids with whom he had gone to school. The officer was perhaps 27 to 33 years of age (Ex. 2, pp. 32-33).

Person B opined that the police were thinking, “Like well we got to be alert like these people are.” Person B thought “that’s what probably rallied up the cops to do what they did. They probably didn’t think they were safe” (Ex. 2, p. 21).

Person B stated that someone grabbed his phone from him while he was video recording the scene. He indicated that someone other than the Indian officer did this (Ex. 2, pp. 45-47).

Person B was arrested. He answered that “the bald guy, the Indian guy, the kid officer” handcuffed him. Another officer told him that the arrest was for reckless driving, and then started laughing (Ex. 2, pp. 6, 48-50, 63).

Person B observed that Person A was injured. He had a large lump on the side of his forehead where he was hit with the gun. Person B could tell that Person A had been hit with something hard. He also had two other injuries on the side of his eye. Person A was also limping (Ex. 2, pp. 67-68).

*Person C* was interviewed in person by the CCRB on September 9, 2016. He stated that he was with friends on August 13, 2016, around 0245 hours, looking for a place to hang out in the vicinity of Tiffany Street and Garrison Avenue. They had been at Barretto Point Park. “[S]ometimes we like to just chill and just hang out. Other people, they just do crazy stuff,” and the police broke it up (Ex. 3, Person C interview transcript, pp. 2, 5, 10-11).

While stopped at a gas station at Tiffany and Garrison, Person C observed several police vehicles chasing a BMW. The BMW was circling the gas station, which sat on an island in the multi-angle intersection of several streets. The police were able to stop the vehicle. Other people were trying to leave the gas station (Ex. 3, pp. 5 6, 19 20).

Person C claimed that he saw Person A “getting jumped” by five to six people. Person A was yelling at them to stop, but they kept hitting him, including in his face. An officer kicked Person A as well. Person C intervened but quickly realized that they were police officers (Ex. 3, pp. 6-8, 23-24, 29-31, 35-36, 49).

Person C described the officer punching Person A as about six feet tall, with light skin, short dark brown hair, and slim but weighing about 200 pounds. The only officer that Person C observed with a gun out was female (Ex. 3, pp. 32, 34).

Person C stated that the officers arrested Person A and Person B. At the precinct, Person C observed a “huge” bump over Person A’s right eye, and one on each temple. There was also swelling and “minor cuts” on his face. Person C helped take Person A home from the hospital (Ex. 3, pp. 8-9, 40-41, 47-49).

**In-Court Testimony**

**SERGEANT WILLIAM MILLER** was the patrol supervisor for the 40 Precinct on the night in question. He responded to the gas station after being informed that officers from his precinct had made arrests there. Four individuals from a vehicle were in custody. The driver of the vehicle was arrested for driving while intoxicated, fleeing from a police officer, and reckless driving (Tr. 26-27).

When Miller returned to the 40 Precinct station house, he learned that two "extra bodies" were in custody there. No one knew where they had come from, and the arresting officer merely was assigned that role and had not actually arrested them. The arresting officer did not know who brought the arrestees to the precinct. They were stamped into the command log, but the only information was the Tiffany and Garrison location and that the crime was reckless endangerment. Miller asked several officers from the 40 Precinct, and contacted the 41 Precinct and Police Service Area 7, all with negative results. He ordered that the arrests be voided (Ex. 6, command log entries; Tr. 28-29, 31-32, 35-40).

The arrested individuals were Person A and Person B. They were "belligerent" and "a little upset" for being in custody, but both were coherent and neither was bleeding from the head. They did not know the name of the officer that arrested them, but described him as a male black or Hispanic, wearing a turban. Miller observed a "very small" bump on one of the individual's heads. He declined medical attention, but later went to the hospital on his own (Tr. 29-30, 33-34).

**RESPONDENT** testified that he was assigned to the 41 Precinct anticrime unit. Shortly after 0200 hours on August 13, 2016, Respondent finished his tour but was still in the precinct when he heard calls for assistance, including 10-13s, regarding a stolen vehicle pursuit from the

40 Precinct. The pursuit crossed over into the 41 Precinct and ended near the station house.

Respondent responded to the scene, armed and in plainclothes (Tr. 42-48, 58-59).

Respondent was familiar with the desolate area of the gas station. Drag racing and car meets occurred there, drawing hundreds of vehicles. This had led to “very chaotic situation[s]” in which cars ran red lights and fled the police (Tr. 48-49).

When Respondent arrived at the location, he observed a chaotic scene with a crashed vehicle and officers chasing several individuals. Respondent believed that they were involved with the stolen vehicle. As he assisted the officers, some of whom were in uniform, in apprehending one of the individuals, Respondent observed another group of people running toward him. This all happened “[w]ithin seconds” (Tr. 49-53, 59-63, 67-69, 73, 77-80).

Respondent testified that he viewed this second group as a threat. They were “aggressively” running toward him. He contended that he was outnumbered, as there were 20 or more officers on the scene but perhaps more than 30 civilians total. Respondent thought that the second group within this larger group of civilians might be trying to interfere with the arrest and was fearful for his and his fellow officers’ safety because “nobody runs towards officers if they don’t intend to hurt anybody.” He identified himself and told the group of at least five individuals to stop while pointing his firearm at them. They stopped, five to ten feet from Respondent. His Department shield was visible on his waist by his holster (Tr. 53-56, 62-66, 80-81).

Respondent indicated that he continued to assist in the apprehension of the first group of individuals. He “just stood around” ensuring everyone’s safety and waiting for the situation to calm down. He denied using further physical force. The second group of people dispersed and became “less combative.” He was not really keeping an eye on them to make sure they did not come any closer. When asked, however, if they did anything further to interfere with the arrests,

Respondent answered, "I don't recall." He denied handcuffing any of the second group or transporting any of them to any precinct. He did assist in taking the person he helped apprehend to a vehicle for transport. Respondent believed this was a vehicle belonging to the 41 Precinct. He assisted in taking a different individual, who was arrested by a different officer, to a van from the 40 Precinct (Tr. 55-57, 64-65, 70-72, 81-82).

Respondent denied telling anyone to "shut the fuck up." He indicated other officers made the decision to arrest the individual that was sitting on the curb and videotaping the scene (Tr. 74).

Respondent testified that he did not recall if any other officer was wearing a turban (Tr. 68).

#### **Specification No. 1**

It is undisputed that Respondent pointed his firearm at Person A. The issue is whether this was justified as a result of Respondent's perception that the group of people running toward him was attempting to interfere with the arrest on which Respondent was assisting.

Pursuant to Patrol Guide § 203-11, effective at the time of this incident, officers were permitted to use "[o]nly that amount of force necessary to overcome resistance" to effect an arrest (p. 1, para. 2). The new force guidelines, Patrol Guide § 221-01, in effect as of June 1, 2017, however, were referenced by the CCRB at trial (Tr. 5-6). The new guideline, at page 3, Note, incorporates the existing Firearms and Tactics Section Student Guide (2016), p. 68, which stated that "prematurely or unnecessarily" drawing a weapon reduces an officer's force options and may result in an unwarranted or accidental discharge. The decision to display a firearm "should be based on an articulable belief that the potential for serious physical injury is present."

In the Court's view, the CCRB failed to prove that Respondent lacked a sufficient basis to believe drawing his firearm was necessary. The CCRB's own complainants admitted they had

been at a car meet, an event that regularly became chaotic and unruly, necessitating a police response. After the police broke up the car meet, the complainants admitted that they and many other people congregated at the gas station in question. Person A stated that there were as many as 40 people there.

The chaos broke loose when the police stopped a vehicle that was driving recklessly in circles around the gas station. The occupants fled. The police chased them. Person A and others decided to run as well. Respondent indicated that Person A's group ran right toward the area where he was assisting in an arrest. It was not unreasonable for Respondent to believe that these individuals could have been planning to, for example, attack the officers and free the arrestee. Given the pandemonium of the scene, the CCRB failed to prove that it was unreasonable for Respondent to display and point his firearm in order to prevent serious physical injury to the officers or civilians. Therefore, he is found Not Guilty of Specification No. 1.

**Specification Nos. 2 & 3**

The second and third specifications charge, respectively, that Respondent struck Person A with the firearm and kicked him in the back. Person A described one of the officers that approached him as having a black item, religious in nature, on his head. It had a bonnet in the front. The officer also had a beard and brown skin. Person A described the officer that told him to freeze and pointed a gun at him as Indian. Person B stated that an Indian officer kicked Person A around three times in the back. He had a beard and "milk chocolate" skin. The officer was wearing a small black cap, which Person B knew was religious garb because he remembered other kids in school wearing it.

The CCRB sufficiently proved that Person A and Person B were describing Respondent. In light of their accurate and unique descriptions of Respondent's appearance, the tribunal does not find the lack of a photo array (Tr. 96-97, 99) to be dispositive. Counsel's conjecture that the

described headgear could have been a “basic ski cap” worn by any officer (Tr. 95-96) is, in light of the complainants’ recognition of the cap as religious and the fact that the incident took place in August, unpersuasive. Further, the testimony of Miller, the patrol supervisor, that Person A and Person B described the officer as black or Hispanic, is equally unpersuasive in light of the fact that these skin colors are not necessarily far off from Respondent and that they both told Miller the officer was wearing a turban.

Counsel argued that Person B described “[t]wo separate Indian officers” as being at the scene (Tr. 96). This is not what Person B said. The investigator asked Person B how many officers were in one particular police vehicle. He answered, “I’ve seen two Indian, little Indian guy, two black guy.” Person B’s in-sentence revision of a statement that was unclear to begin with is insufficient to prove that more than one Indian officer was present. Finally, both Person A and Person B stated that other officers were involved in striking Person A, so their statements about a black officer are immaterial to their identification of Respondent (Tr. 95, 97-98). The same can be said of Person C’s descriptions of officers not consistent with Respondent (Tr. 93-95, 98).

Hearsay is admissible in this forum if it is sufficiently relevant and probative. See People ex rel. Vega v. Smith, 66 N.Y.2d 130, 139 (1985); Matter of Grossman v. Kralik, 217 A.D.2d 625, 626 (2d Dept. 1995); cf. Matter of Andruszkiewicz v. Doherty, 84 A.D.3d 595 (1st Dept. 2011) (hearsay testimony of Sanitation Department investigator, who obtained statement from woman that tipped employee for accepting trade waste, was sufficiently relevant and probative to demonstrate that employee accepted the gratuity). Here, the accounts of Person A and Person B were corroborated by the photographs and medical evidence. Specifically, their testimony about Respondent’s actions was consistent with the photographs and medical records. Cf. Grossman, 217 A.D.2d at 626 (memorandum of judge concerning court attendant’s dozing off during proceedings was corroborated by other evidence).

The photographs of Person A after his release and the medical records substantiate the claim that he was struck in the head by a hard object and that something struck his back. The photographs show a large lump, about two to three inches in diameter, on the left side of Person A's head. Person B specifically ascribed this to Person A being struck in the head with the firearm. The medical records document contusions and abrasions to the left side of his head. Those records also show mild abrasions to Person A's back. Person B witnessed the Indian officer kick Person A in the back approximately three times. Person A also stated that an African-American officer struck him in the back with a baton. As a whole, however, the medical records corroborate Person A and Person B's account that Respondent struck him multiple times in different parts of the body. The CCRB was required to prove that Respondent struck and kicked Person A, but not that he caused any particular injury.

The Court also finds that the testimony by Person A and Person B about Respondent's appearance was not only sufficient to describe Respondent, but that it also corroborated their general credibility. Both witnesses described Respondent as wearing a religious head covering, having brown skin and a beard, and being in his late 20s to early 30s. They differed only in their assessment of Respondent's height. Person A described the officer as about 5'4'', whereas Person B described him as between 5'8'' and 5'10''. The Court does not view this as a discrepancy of much significance, as it is often difficult to assess someone's height or weight.

The Court, in sum, found the corroborated hearsay statements to be extremely credible and dispositive of the case.

Respondent testified that after pointing the weapon and seeing that the group had ceased its threatening movement, he re-holstered his weapon. He "just stood around" to ensure that the arrest scene remained secure and waited for the situation to calm down. He was "[n]ot really" keeping an eye on them to make sure they did not come any closer. This is a group of people at

whom minutes before he had needed to point his firearm because they were a perceived threat. Although Respondent denied using further force, his statements that he essentially stood around and did nothing are rather dubious. His demeanor on the stand was evasive and evident of an attempt to deny all knowledge of anything that happened after he pointed the weapon. This evasiveness cast Respondent's entire testimony in doubt. His denial that he used force against Person A therefore is not credible.

In sum, the CCRB proved it was more likely than not that Respondent wrongfully struck Person A with his firearm and kicked him in the back. He thus is found Guilty of Specification Nos. 2 and 3.

**Specification Nos. 4, 5 & 7**

The fourth and fifth specifications charge that Respondent wrongfully arrested Person A and Person B, respectively. The problem here is that there was no actual statement by the complainants that Respondent actually arrested them or directed their arrests. The closest indication was Person B's statement that "the bald guy, the Indian guy, the kid officer" handcuffed him. It is unclear what this even means, much less that it proved Respondent's responsibility for the arrests. Therefore, Respondent is found Not Guilty.

Similarly, the seventh specification charges that Respondent wrongfully interfered with Person B's video recording of the scene using his cell phone. Person B, however, stated that someone other than the Indian officer grabbed his phone. The CCRB failed to provide any evidence, as they suggested in their opening statement, that Respondent observed Person B recording the events and said, in sum and substance, "That's it, cuff him" (Tr. 11-12). It is not something any of the CCRB witnesses stated and certainly not something to which Respondent testified. Respondent thus is found Not Guilty of Specification No. 7.

**Specification No. 6**

The sixth specification charges that Respondent wrongfully used offensive language by telling Person B to “shut the fuck up.” Both Person B and Person A affirmed that the Indian officer used this phrase toward Person B. As noted supra, the Court already has determined that the complainants sufficiently identified Respondent by reference to the Indian officer.

The Court’s credibility determination with regard to Respondent’s non-memory of his actions after re-holstering his firearm apply equally to his denial of telling Person B to shut the fuck up. The tribunal finds Respondent’s failure to remember any details of the after-events to be detrimental to the credibility of his denial. Therefore, the Court finds that Respondent made the charged statement.

This tribunal has held that profane remarks, made during stressful situations or while an officer is trying to get a chaotic situation under control, are not misconduct. See, e.g., Case No. 2014-11644, pp. 7-8 (June 19, 2015) (even if officer told prisoner to “shut up and mind your fucking business” while attempting to help another officer who was wrestling on the ground of the holding cell with another prisoner, this was not misconduct).

The extension of an exception to a rule should be circumscribed. Otherwise the exception will swallow the rule. Here, the interaction between Respondent and Person B was not so chaotic that the duty of courteous and professional behavior should be overridden by the immediate need to maintain order. There is no evidence that Person B was trying to interfere with any police action, as opposed to just complaining about what had occurred. It would be extremely incongruous for the Court to hold Respondent accountable for excessive force against Person A, but excuse his foul language toward a bystander while engaging in that excessive force. As such, the “Shut the fuck up” remark was completely unnecessary and without a legitimate police purpose. Therefore, Respondent is found Guilty of the sixth specification as well.

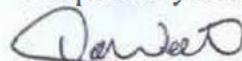
## **PENALTY RECOMMENDATION**

In order to determine an appropriate penalty, Respondent's service record was examined.

See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 9, 2012. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

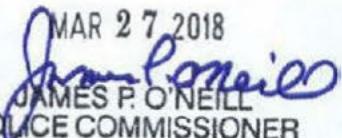
In light of Respondent's otherwise excellent service record, the tribunal recommends that Respondent receive a penalty of 15 vacation days for his misconduct in this matter. See Case No. 2015-14319 (Mar. 28, 2017) (11-year officer, no prior disciplinary history, forfeited 15 days for repeatedly striking prisoner in the head with closed fist; he suffered an orbital fracture and several abrasions and lacerations to his face, confirmed in medical records).

Respectfully submitted,



David S. Weisel  
Assistant Deputy Commissioner Trials

## **APPROVED**

MAR 27 2018  
  
JAMES P. O'NEILL  
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER MANDEEP SINGH  
TAX REGISTRY NO. 952245  
DISCIPLINARY CASE NO. 2017-17005

Respondent was appointed to the Department on January 9, 2012. On his last three annual performance evaluations, he received a 4.5 overall rating of "Extremely Competent/Highly Competent" in 2016, a 4.0 "Highly Competent" in 2015 and a 4.5 "Extremely Competent/Highly Competent" in 2014. [REDACTED]

[REDACTED]  
On November 14, 2016, he was placed on Level 1 Force Monitoring as a result of receiving three or more CCRB complaints during a one-year period. This monitoring remains ongoing.

Respondent has no formal disciplinary history.

For your consideration.

David S. Weisel  
Assistant Deputy Commissioner Trials